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PAGES INCLUDING COVER SHEET	5	USER NUMBER	8308
CLIENT/MATTER	014607-000005		

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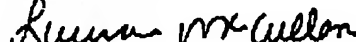
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1 Samuel M. Heinrich	US Patent and Trademark Office		(571) 273-8300
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**Remarks:**

**UNITED STATES Application Ser. No. 10/707,958**  
**Applicant: Phillip L. Fusen**  
**Filed: January 28, 2004**

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/707,958  
Applicant : Phillip L. Fuson  
Filed : January 28, 2004  
TC/A.U. : 1725  
Examiner : Samuel M. Heinrich  
Docket No. : 014607.000005  
Customer No. : 24,239

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION AND ELECTION REQUIREMENTS  
UNDER RULES 143 AND 146**

Sir:

In response to the Restriction and Election Requirement by the Examiner under 35 U.S.C. 121 dated October 11, 2005, the Applicant provisionally elects for examination of Group I, claims 1-15, both for the invention restriction designation by the Examiner and the species designation by the Examiner. The Applicant traverses the restriction and election requirements as follows.

Without asserting or admitting in any way that the Inventions as identified by the Examiner are not patentably distinct, the Applicant submits that the restriction and election of species requirements are improper. The search and examination of the following Groups can be made without serious burden. The Examiner must therefore examine the application on the merits. See MPEP § 803.01. Specifically:

TR11616514v1

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The Applicant submits that the examination of Groups I, II, VII, and X should be performed together, as the search for these claims will all be done concurrently and the effort for the Examiner to examine all of these claims is not unduly burdensome as compared to examining one of the Groups. With respect to the restriction between apparatus and methods claims, the Applicant submits that all the apparatus and method claims are directed to or include a material processing device, and there are no material differences. The apparatus can only be used for the processes of the subject method claims. If, however, the Examiner disagrees, at minimum the examination of Groups I and II should be concurrent, and the examination of Groups VII and X should be concurrent, for the reasons noted above.

The Applicant submits that the examination of Groups III, VIII, and XI should be performed together, as the search for these claims will all be done concurrently and the effort for the Examiner to examine all of these claims is not unduly burdensome as compared to examining one of the Groups. With respect to the restriction between apparatus and methods claims, the Applicant submits that all the apparatus and method claims are directed to or include a device to inspect a workpiece, and there are no material differences. The apparatus can only be used for the processes of the subject method claims. If, however, the Examiner disagrees, at minimum the examination of Groups VIII and XI should be concurrent for the reasons noted above.

The Applicant submits that the examination of Groups IV, V, VI, IX, and XII should be done together, as the search for these claims will all be done concurrently and the effort for the Examiner to examine all of these claims is not unduly burdensome as

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compared to examining one of the Groups. With respect to the restriction between apparatus and methods claims, the Applicant submits that all the apparatus and method claims are directed to or include a device to process material, and there are no material differences. The apparatus can only be used for the processes of the subject method claims. If, however, the Examiner disagrees, at minimum the examination of Groups IV, V, and VI should be concurrent, and the examination of Groups IX and XII should be concurrent, for the reasons noted above.

Further, claim 40 is generic to Group (species) IV, to which it belongs, and to Group (species) V, in that Group V includes all of the elements of claim 40.

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### CONCLUSION

As discussed, the search and examination of the claims in the Groups set forth above does not pose a serious burden to the Examiner. In contrast, the cost to the Applicant of pursuing the numerous Groups is substantial. If the Examiner has any questions about the present Response or anticipates final restriction that rejects the traverses made herein, a telephone interview is respectfully requested.

Respectfully submitted,

Phillip L. Fuson

Date: 11 November 2005

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